constitutes a cause of action under 42 U.S.C. § 1983. *See e.g. Dykes v. Hoseman*, 743 F.2d 1488 (1984). The Petitioner's claims arose as retribution for filing his Petition for Writ of Certiorari. (App. 1a - 4a) It does not follow that the Petitioner must seek relief in a lower federal court.

THE STATUTE IS CONTRARY TO LAW

A constitutional challenge necessitates facial scrutiny of C.R.S. 14-10-116.5 (2005). *See Matthew D. Adler, Rights Against Rules: The Moral Structure of American Constitutional Law*, 97 Mich. L. Rev. 1, 157 (1998). The Statute will not survive strict scrutiny. *See generally*, C.R.S. 14-10-116.5. This Statute reaches a substantial amount of constitutionally protected conduct. *See Hoffman Estates v. Flipside*, 455 U.S. 489 (1982). This Court does not need to define the precise scope of the rights at issue if the statute does not provide the necessary due process protections. *Id.*

The Statute permits a court to appoint an individual for the parties to compensate on its own motion. *See* C.R.S. 14-10-116.5 (2005). The Statute does not provide procedural protection for parents and children who have the right to remain free from artificially induced proceedings where adjudication is complete. *But see*, C.R.S. 14-10-116.5 (2005). The "best interests" of children are not served by this imposition. *But See* C.R.S. 14-10-116.5 (2005). The statute provides no minimal procedural protections to preserve continuity for children and families' constitutionally protected relationships. *But See* C.R.S. 14-10-116.5 (2005).

The statute provides, "the court shall set forth the duties of such individual in a written order of appointment." C.R.S. 14-10-116.5 (2005). The absence of limitations and/or definitions of the scope of an appointee's role, power, compensation, results in abuse. A statute must contain language that provides fair notice of what conduct is

prohibited and provide enforcement authorities with sufficiently definite standards to ensure uniform and non-discriminatory enforcement of those prohibitions. *See* generally, *Hoffman Estates,* 455 U.S. 489 (1982); *But see,* C.R.S. § 14-10-116.5 (2005). This case illustrates the consequences of enforcing legislation which fails to comply with constitutional doctrine. An appointee's authority as the *Child and Family Investigator* appointed pursuant to 14-10-116.5 is unlimited. The *Child and Family Investigator* may assume the role of advocate, witness, psychologist, judge, and mediator. Moreover, courts are entitled to deny parents access to the *Child and Family Investigator*'s findings.

The freedom to associate is protected by the First Amendment. This Court has established that "[t]he loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury." *Elrod v. Burns* , 427 U.S. 347, 373 (1976). A parent who is deprived of custody of his or her child—even temporarily—suffers thereby grievous loss and such loss deserves extensive due process protection. *See In the Interest of Cooper*, 621 P 2d 437 (10th Cir. 1980). Parents retain a vital interest in preventing irretrievable destruction of their family life. *See Santosky v. Kramer*, 455 US 745 (1982).

Persons faced with forced dissolution of their parental rights have a critical need for procedural protections. *See Id.* The parent in a change of custody case must be allowed an opportunity to rebut the conclusions of a report and to cross-examine the preparer. See Stern, Nat & Oehme, Karen: *The Troubling Admission of Supervised Visitation Records in Custody Proceedings*, 75 Temp. L. Rev. 271, 291 (2002). *Ex parte* adjudication without notice is not due process. *Dalton v. People ex rel. Moors*, 360 P.2d 113 (Colo. 1961). Persons forced to settle their claims of right and duty through the judicial process must be given a meaningful opportunity to be heard. *See Boddie v.*

Connecticut, 401 US 371 (1971). The Magistrate denied the Petitioner access to the courts. State courts are also bound to proceed in a manner that all substantial rights of the parties under controlling federal law are protected. *See e.g. Board of Trustees v. Garrett*, 531 U.S. 356, 372 (2001).

PRO SE PETITIONS FOR WRIT OF CERTIORARI FILED WITH THIS COURT AND ADDRESSING PROCEDURAL ABUSE BY INFERIOR TRIBUNALS

Irrespective of the reasons for this Court's historic denial of *pro se* petitions for Writ of Certiorari, the statistics are not favorable. *See* Arthur D. Hellman, *Case Selection in the Burger Court: A Preliminary Inquiry*, 60 Notre Dame L. Rev. 947 (1985). This Court's function is contingent on public confidence.

The Petitioner proceeded in the trail court *pro se*. The rise in the number of pro se litigants in child and family cases has grown exponentially. The Petitioner has federal statutory right to act *pro se* in the proceedings at issue. *See e.g.*, 28 U.S.C. § 1654 (2005). *Pro se* litigants are routinely subject to procedural abuse. Edward M. Holt, *How to Treat "Fools": Exploring the Duties Owed to Pro Se Litigants in Civil Cases*, 25 J. Legal Prof. 167 (2001). To demonstrate, the Colorado Court of Appeals re-characterized the Petitioner's pleadings as Petition[s] for Rehearing three times before he did file a Petition for Rehearing. *See* (App. 5a – 13a)

This Court has established that *pro se* parties are entitled to additional protection from procedural abuse. *See e.g., Castro v. United States*, 540 U.S. 375 (2003). The proportion of *pro se* litigants in divorce courts is increasing exponentially. *See* Margaret Martin Barry, *Accessing Justice: Are Pro Se Clinics a Reasonable Response to the Lack of Pro Bono Legal Services and Should Law School Clinics*

Conduct Them?, 67 Fordham L. Rev. 1879, 1884 (1999).

Over thirty-three million Americans are divorced. NCHS, *Monthly Vital Statistics Report*, Vol. 43, No. 13 (October 23, 1995). Every adult and minor child of these dissolved marriages is entitled to the protection of their respective fundamental rights. Every minor child of these dissolved marriages is potentially subject to *ex-parte* orders regarding their "best interests." These minor children may be removed from their homes without notice or a hearing only because they are children of divorced parents. *E.g.* (App. 14a – 17a)

Child and family legal issues pervade both federal and state courts. Libby S. Adler, *Federalism and Family*, 8 Colum. J. Gender & L. 197 (1999). State procedure for creating and enforcing judgments is subject to the strictures of due process. *See Mitchum v. Foster*, 407 U.S. 225, 240 (1972). The Magistrate has adjudicated the rights of the Petitioner and the rights of the minor child A.S. behind closed doors. *E.g.* (App. 14a – 17a) Access to the courts is essential where fundamental rights are at stake. Moreover, obstructing the legal means available to litigants to access state tribunals is a violation of the First Amendment.

SCHWIEGERATH V. SCHWIEGERATH IS NOT PENDING BEFORE THIS COURT ON PETITION FOR WRIT OF CERTIORARI

The case on appeal to this Court for Writ of Certiorari is not *Troy Schwiegerath v. Dawna Schwiegerath.* This action is on file with the Colorado Supreme Court as *Troy Schwiegerath v. The Eighteenth Judicial District, The District Court of Douglas County, Beth Elliot-Dumler, Cheryl Lane and Mary Mullarkey.* The case must be decided on its

individual merits and as separate and collateral action. This Court is entitled to verify that *Troy Schwiegerath v. The Eighteenth Judicial District, The District Court of Douglas County, Beth Elliot-Dumler, Cheryl Lane and Mary Mullarkey* is on file docketed as case number 05SA147 with the Colorado Supreme Court.

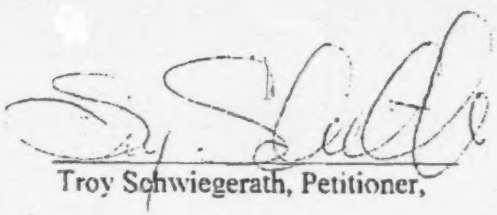
CONCLUSION

For the foregoing reasons, this Court should grant this Petition for Rehearing and issue Writ of Certiorari to the Colorado Supreme Court.

AFFIRMATION

I affirm that this Petition is submitted in good faith and not for the purposes of delay.

Respectfully submitted this 28th day of October, 2005.



Troy Schwiegerath, Petitioner,

(handwritten notations) > DISMISSED –STDT
>DUMLER

GRANTED
Within 10 days for the date of this order, the moving party is directed to furnish a copy of this order to any pro se party who has entered an appearance in this action.

/s/ Beth Elliott-Dumler
District Court Magistrate
Date of order indicated on attachment

DISTRICT COURT DOUGLAS COUNTY, COLORADO Court Address: 4000 Justice Way, Suite 2009 Castle Rock, Colorado 80104	**^ Court Use Only^**
Petitioner: DAWNA L. SCHWIEGERATH **Respondent: TROY SCHWIEGERATH**	Case Number: 02DR477 Div: 3 Ctrm.:

ORDER REGARDING VERIFIED MOTION TO ENFORCE PARENTING TIME PURSUANT TO C.R.S. §14-10-129.5

1. On or about March 15, 2005, Petitioner filed her *Verified Motion to Enforce Parenting Time Pursuant to C.R.S. §14-10-129.5* seeking enforcement of the Court's Orders regarding parenting time, requesting an award of attorneys fees and costs and an order requiring Respondent to pay a fee of $100.00 per

incident for any future non-compliance with the parenting time schedule.

2. On May 3, 2005, this Court entered an *Order re: 1. Petitioner Motion to Enforce Parenting Time 2. Respondent Motion to Correct and Certify Post Decree Adjudication in Accordance with Applicable Law 3. Respondent Motion for Declaratory Relief Pursuant to C.R.C.P. 57 and Notice of constitutional violations 4. Respondent Motion for Release of Elizabeth Holman File 5. Motion to Withdraw by Respondent Attorney.*

3. The Court's Order found that the *Separation Agreement* reflects that the children's primary residence is with the Petitioner and that the *Stipulation Regarding Parental Responsibilities, Parenting Time and Child Related Matters,* reflect that current orders regarding decision making responsibility and parenting time and stand until modified. The *Order* further directed that a forthwith hearing be set on the issue of Alexxy Schwiegerath and the *Motion to Enforce Parenting Time.*

4. A forthwith hearing was set for May 12, 2005, at 2:00 p.m. and notice was provided to Respondent. Respondent failed to appear at the forthwith hearing on May 12, 005.

5. The Court finds that Respondent has not complied with the parenting time schedule regarding Alexxy Schwiegerath, and has violated the Court's Orders.

6. The court Orders, in the best interests of the children, that a civil fine shall be imposed in the amount

$100.00 per incident of non-compliance with the current orders.

7. Since the court's Order on May 3, 2005, Petitioner has been denied her parenting time with Alexxy Schwiegerath, on May 3, 2005, May 4, 2005, May 5, 2005, May 6, 2005, May 7, 205, May 8, 2005, May 9, 2005, May 10, 2005, May 11, 2005 and May 12, 2005. Respondent is fined $100.00 per each incident for a total amount of $1,000.00 Said amount is due and payable to Petitioner as of the date of this Order.

8. For each further date of non-compliance, Respondent shall be assessed a fine of $100.00 per incident of non-compliance with the parenting time schedule.

9. Respondent in next scheduled to have regular parenting time with the parties three daughters, Christian Schwiegerath, Alexxy Schwiegerath and Jetta Schwiegerath from May 14, 2005 through May 18, 2005. Respondent is then schedule to have regular parenting time from June 4, 2005 through June 8, 2005; June 25, 2005 through June 29, 2005; July 16, 2005 through July 20, 2005; August 6, 2005 through August 10, 2005; August 27, 2005 through August 31, 2005; September 17, 2005 through September 21, 2005; October 8, 2005 through October 12, 2005; October 29, 2005 through November 2, 2005; November 19, 2005 through November 23, 2005 and December 10, 2005 through December 14, 2005. The parties have not yet determined how Christmas 2005 will be s hared pursuant to the current order and Respondent's 2006 regular parenting time schedule has not yet been determined. Pursuant to the current orders the children's primary residence is with Petitioner and

they should remain in Petitioner's care except for those times where Respondent is schedule to have regular parenting time or holiday parenting time.

10. Should any of the three children not be returned to Petitioner's care on those dates the children are scheduled to be with Petitioner, law enforcement officials, wherever the minor children may be found, may enter the premises where the children may be found in order to take immediate physical custody of the child and provide said custody to Petitioner.

11. Respondent shall pay for all reasonable attorney fees, costs and expenses associated with this enforcement action. Petitioner's counsel is directed to submit an Attorney Fees Affidavit within fifteen (15) days of the date of the signing of this order and Respondent shall have fifteen (15) days upon receipt of the same to file any objections.

DONE AND SIGNED _____, 2005, nunc pro tunc, May 12, 2005.

BY THE COURT:

_____
DISTRICT COURT JUDGE/MAGISTRATE

Court: CO Douglas County District Court 18th JD
Judge: Beth A Elliott-Dumler
Date: 6/22/05
Case Number: 2002DR477
Case Name: SCHWIEGERATH, DAWNA L AND SCHWIEGERATH, TROY
/s/ Judge Beth A Elliott-Dumler

COURT OF APPEALS **STATE OF COLORADO** Colorado State Judicial Building Two East 14th Avenue Denver, CO 80203 Facsimile: 303-864-4534 Telephone: 303-837-3785	COURT USE ONLY [handwritten notation – 05-1016]
In Re the Marriage of: **Troy Schwiegerath, Appellant,** **and,** **Dawna Schwiegerath, Appellee** **Respondent: TROY SCHWIEGERATH**	Colorado Court of Appeals Douglas County District Court Case Number: 02 DR 477
Pro See Party Troy Schwiegerath 6955 West Polk Avenue Littleton, Colorado 80123 Tel: (303) 933-2154	

PETITION FOR REHEARING

[Official Box Stamps over caption –
GRANTED(crossed out) DENIED(circled)
9-22 2005
(handwritten not.) any further relief should be sought in supreme court
By the Court
(handwritten not.) phlr
Colorado Court of Appeals

COPIES MAILED TO
COUNSEL OF RECORD
To Ct. Judge Tri. Ct. Clerk
AND [handwritten not.] prose
ON [handwritten not.] 9-22-05
BY [handwritten not.] (unintelligible)
COLORADO COURT OF APPEALS]

COMES NOW, THE Apellant, *pro se*, and submits his Petition for Rehearing and states as follows:

1. On August 23, 2005, Judges Casebolt, Webb and Graham adopted Judge Davidson's unilateral attempt to dismiss the above-captioned appeal.

2. C.R.M. 7 (a) is not applicable to the judgment on appeal. *But See*, Order August 23, 2005. Furhter, the record on appeal reflects that the Appellant did contest Magistrate Beth Elliott-Dummer's rulings in a timely manner1.

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1 Citations to the record are not available, as, this court has failed to require the Douglas County District Court's timely transmittal of the same. This Court's expressly prohibit

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COLORADO COURT OF APPEAL September 22, 2005
No. 05CA1016 ORDER DENYING PETITION TO REHEARING

In re the Marriage of

DAWNA L. SCHWIEGERATH,
APPELLEE

and

TROY SCHWIEGERATH,
APPELLANT

Appeal from the DOUGLAS COUNTY Honorable BETH ELLIOTT-DUMLER, MAGISTRATE, judge No. 02DR477

The PETITION FOR REHEARING filed in this appeal by:
TROY SCHWIEGERATH/APPELLANT
is DENIED. CASEBOLT, WEBB, GRAHAM, JJ

Issuance of the Mandate is stayed until: October 24, 2005
If a Petition for Certiorari is timely filed with the Supreme Court of Colorado, then the stay shall remain in effect until disposition of the cause by that Court.

By the Court

[stamped box:
COPIES MAILED TO
COUNSEL OF RECORD
To Ct. Judge Tri. Ct. Clerk (crossed out)
AND [handwritten not.] prose

ON [handwritten not.] 9-22-05
BY [handwritten not.] (unintelligible)
COLORADO COURT OF APPEALS]

COLORADO COURT OF APPEALS	**ORDER**
No. 05CA1016	Tr. Ct. No. 02DR477

In re the Marriage of
Dawna L. Schwiegerath, Petitioner-Appellee
and
Troy Schwiegerath, Respondent-Appellant

Upon consideration of the response to the court's Order of July 26, 2005, the Court DENIES the petition for rehearing, and the case remains DISMISSED for failure to timely seek review of the magistrate order as required by C.R.M. 7(a).

BY THE COURT:

Casebolt,J.
Webb, J.
Graham, J.

Dated: August 23, 2005

Copies to: Counsel of Record
Clerk of the District Court. Pb/3j

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COUNSEL OF RECORD
To Ct. Tri. Ct. Judge (crossed out) Ct. Clerk (circled)
AND [handwritten not.] prose
ON [handwritten not.] 8-23-05
BY ACG
COLORADO COURT OF APPEALS]

COLORADO COURT OF APPEALS	**ORDER**
No. 05CA1016	Tr. Ct. No. 02DR477

In re the Marriage of	
Dawna L. Schwiegerath,	Petitioner-Appellee
and	
Troy Schwiegerath,	Respondent-Appellant

Upon consideration of the objection filed by appellant on July 18, 2005, which the Court construes as a petition for rehearing, the Court DEFERS ruling.

In this case, the magistrate had the authority ot enter the May 3, 2005, order without the parites' consent. See C.R.M. 6(b)(1); People ex rel. Garner v. Garner, 33 P.3d 1239 (Colo. App. 2001). Therefore, appellant must file a motion for review within 15 days of the date of entry and the district court enter an order on that motion as a condition precedent to further appellate review. C.r.M. 7(a)(11) ("Appeal of an order or judgment of a district court magistrate may not be taken to the appellate court unless a timely petition for review has been filed and decided by a reviewing court in accordance with these Rules."); Garner,

supra. "If timely review in the district court is not requested, the order or judgment of the magistrate shall become the order or judgment of the district court. ***Appeal of such district court order or judgment to the appellate court is barred.***" C.R.M. (a)(12) (emphasis added.).

IT IS THEREFORE ORDERED that appellant shall show cause, if any there is, in writing and within 14 days from the date of this order, why the petition for rehearing should not be denied and this appeal should not remain dismissed with prejudice for failure to seek timely review of the magistrate's order in district court. Appellant asserts that he did "object" to the magistrate's order. If so, appellant must provide this Court with a copy of the objection or motion for review, including the date it was filed in the district court, and provide this Court with a copy of the district court's order on review. Failure to file a timely response to this Order shall result in denial of the petition without further notice.

BY THE COURT

Dated: July 26, 2005

Copies to: Counsel of Record & Pro Se pb/sa
District Court

[stamped box:
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COUNSEL OF RECORD
To Ct. Tri. Ct. Judge (crossed out) Ct. Clerk (circled)
AND [handwritten not.] prose
ON [handwritten not.] 8-23-05
BY ACG
COLORADO COURT OF APPEALS]

[handwritten notation – CK # 1067 $75.00 [filed stamped]

COLORADO COURT OF APPEALS Two East 14th Avenue, 3RD Floor Denver, CO 80203	
In Re the Marriage of: **DAWNA L. SCHWIEGERATH** **Petitioner-Appellee** **and,** **TROY SCHWIEGERATH** **Respondent-Appellant**	^COURT USE ONLY^ Case Number: 05 CA 1016
Sarah W. Quinlan Fontana & Associates, P.C. Attorneys for Petitioner-Appellee 5941 S. Middlefield Road, Suite 201 Littleton, Colorado 80123 Telephone: (303) 468-2668 Atty. Reg. #: 32426	
MOTION TO DIMSISS WITH PREJUDICE	

[Official Box Stamps over caption –
GRANTED(circled) DENIED(crossed out)
7-7. 2005
(handwritten not.) Having received no response, Court Dismisses the appeal.
By the Court
(handwritten not.) Davidson CJ pb/sa
Colorado Court of Appeals

COPIES MAILED TO

COUNSEL OF RECORD
To Tri. Ct. Judge (crossed out) Ct. Clerk(circled)
AND [handwritten not.] prose
ON [handwritten not.] 7-7-05
BY ACG
COLORADO COURT OF APPEALS]

The Petitioner-Appellee, Dawna L. Schwiegerath, by and through her attorney of record, Sarah W. Quinlan of Fontana & Associates, P.C. hereby requests that Respondent-Appellant's appeal be dismissed with prejudice and in support thereof states as follows:

1. On May 3, 2005, Magistrate Eliot-Dumler of the Douglas County District Court, entered an Order entitled Order re: 1. Petitioner Motion to Enforce Parenting Time 2. Respondent Motion to Correct and Certify Post Decree Adjudication in Accordance with Applicable Law 3. Respondent Motion for Declaratory Relief Pursuant to C.R.C.P. 57 and Notice of Constitutional Violations 4. Respondent Motion for Release of Elizabeth Holman File 5. Motion to Withdraw by Respondent Attorney.

DISTRICT COURT **DOUGLAS COUNTY, COLORADO** 4000 Justice Way, Sute 2009 Castle Rock, Colorado 80104	
In Re the Marriage of: **Petitioner: DAWNA L. SCHWIEGERATH** **and,**	^COURT USE ONLY^ Case Number: 02 DR 477 Div.: 3 Ctrm.:

Respondent: TROY SCHWIEGERATH	
Sarah W. Quinlan Fontana & Associates, P.C. 5941 S. Middlefield Road, Suite 201 Littleton, Colorado 80123 Telephone: (303) 468-2668 Atty. Reg. #: 32426	
VERIFIED MOTION FOR ENTRY OF JUDGMENT	

The Petitioner, Dawna L. Schwiegerath, by and through her attorney of record, Sarah W. Quinlan of Fontana & Associates, P.C., requests that this court to enter judgment in favor of Petitioner and against respondent and in support thereof states:

1. On June 22, 2005, *nunc pro tunc*, May 12, 2005, this court entered an *Order Regarding Verified Motion to Enforce Parenting Time Pursuant to C.R.S. §14-10-129.5*, which is attached hereto and incorporated herein as Exhibit A.

2. The *Order Regarding Verified Motion to Enforce Parenting time Pursuant to C.R.S. §14-10-129.5*, provides, in paragraph 6, "The Court Orders, in the best interests of the children, that a civil fine shall be imposed in the amount of $100.00 per incident of non-compliance with the current orders."

3. In paragraph 7, the *Order* states "Since the Court's Order on May 3, 2005, Petitioner has been denied her parenting time with Alexxy Schwiegerath, on May 3, 2005, May 4, 2005, May 5, 2005. May 6, 2005, May

7, 2005, May 8, 2005, May 9, 2005, May 10, 2005, May 11, 2005 and May 12, 2005. Respondent is fined $100.00 per incident for a total amount of $1,000.00. Said amount is due and payable to Petitioner as of the date of this Order."

4. Respondent has failed to pay the Court Ordered $1,000.00 to Petitioner. Petitioner submits that judgment should be entered for $1,000.00 against Respondent.

5. IN paragraph 8, the *Order* states "For each future date of non-compliance, Respondent shall be assessed a fine of $100.00 per incident of non-compliance with the parenting time Schedule.

6. Petitioner submits that Respondent denied Petitioner her scheduled parenting time with Alexxy Schwiegerath on May 12, 2005, May 19, 2005, May 20, 2005, May 21, 2005, May 22, 2005, May 23, 2005, May 24, 2005, May 25, 2005, May 26, 2005, May 27, 2005, May 28, 2005, May 29, 2005, May 30, 2005, May 31, 2005, June 1, 2005, June 3, 2005, June 9, 2005, June 10, 2005, June 11, 2005, June 12, 2005, June 13, 2005, June 14, 2005, June 15, 2005, June 16, 2005, June 17, 2005, June 18, 2005, June 19, 2005, June 20, 2005, June 21, 2005 and June 22, 2005. This amounts to thirty-one (31) additional days which pursuant to the Court's *Order*, Respondent must be fined $100.00 per incident for his non-compliance.

7. Petitioner submits that judgment should be entered for $3,100.00 against Respondent for his thirty-one additional days of non-compliance.

8. On September 12, 2005, Petitioner requested via e-mail payment of 44,100.00. A copy of the Spetember

13, 2005, e-mail is attached hereto and incorporated herein as Exhibit B.

9. Respondent has not paid Petitioner any money towards the $4,100.00

10. Petitioner is entitled to entry of judgment in Petitioner's favor against Respondent, in the principal amount of $4,100.00, with interest accruing from the date of judgment at the rate of eight percent (8%) per annum.

11. Petitioner has incurred attorney fees and costs due to Respondent's failure to comply with the Court orders and request that said fees and costs be assessed against Respondent.

WHEREFORE, Petitioner respectfully request this Honorable Court enter judgment against the Respondent; to award attorney fees and costs associated with the bringing of this motion; and for such other and further relief as the Court deems just and proper.

DATED: October 3, 2005

Respectfully submitted,

FONTANA &
ASSOCIATES, P.C.

/s/

Sarah W. Quinlan (#32426)

VERIFICATION

STATE OF COLORADO)
)s
County of Arapahoe)

I, Dawna L. Schwiegerath, being first duly sworn upon oath, states that I am the above Petitioner, have read the *Verified Motion for Entry of Judgment*, know the contents thereof to be true and correct to the best of my knowledge, information and belief.

/s/

Dawna L. Schwiegerath

Subscribed and sworn to before me on October 3, 2005, by Dawna L. Schweigerath.

Witness my hand and official seal.
[official notary seal]

(Signature unintelligible)

Notary Public
My commission expires: 3-10-08

CERTIFICATE OF MAILING

I certify that on October 3, 2005, a true and correct copy of the *Verified Motion for Entry of Judgment*, was deposited into the United States Mail, postage prepaid, properly addressed as follows:

Troy Schwiegerath
6955 W. Polk Avenue
Littleton, Colorado 80123

(signature unintelligible)

E-mails:

From: Dawna Lynn
schwiegerath<dawnalynn0307@comcast.net>
To: TROY SCHWIEGERATH<dfdisme_01@msn.com>
cc.: "Antoinette Grubb" <agrubb@fontanafamilylaw.com>
Sent: Tuesday, September 13, 2005 5:08 PM
Subject: Money stuff .....

September 15, 2005.

I am writing to you in regards to the judgment made on or about May 3, 2005. This ruling stated that each day you continued to deny my parenting time with Alexxy, you would have to pay the sum of $100 to me for not complying with Court Orders.

The total days you defied Court Orders were 41 days ... May 3rd through May 13, June 19th through July 3rd, and July 9th through June 22 of 2005. This is a total of $4,100.00 that you owe. I am attempting one more time to collect the money you owe me for these days. Over five months have passed and I feel that you are continuing to ignore the Court Orders. There are also Attorney's fees that you owe as well. Pease pay the amount you owe, within the next ten days from the date of this email, so we can put this all behind us and start a new day.

Thanks,

Dawna Schweigerth

(signed)

From: "Dawna Lynn schwiegerath"
To: "TROY SCHWIEGERATH"

Date: Thu, 7 Jul 2005 21:34:23 -0600

Thank you for dropping off that stuff to my Lawyer.
You didn't however, drop off the one document that states Alexxy's
declaration of independence .....
Can you please bring that one and any other ones that might be missing to
my Lawyer?
Also, since we are BOTH supposed to follow the CURRENT court orders------
until they are changed--
Makes it an issue for your parenting time this weekend.....Even though
we have some of the documentation for your NEW kelly day, we still need to
file it with the court system to make it official.
Which causes a problem.....I WILL NOT VIOLATE COURT ORDERS.....

So, what we can do for now, until the orders are changed is:
Use your Vacation time.....If this is acceptable to you, just write me
back stating that this Saturday-Weds will be 5 days of vacation time that
you are entitled to.....
Otherwise, we will have to wait for the orders to change.....
If I don't hear back from you, I will assume that until the orders are
changed, we will both be abiding to them.....
Thanks

p.s. What do you think that E. Holeman and Magistrate Dumbler did to you ?
Do you not understand that these people are honest educated

people? Just
like Judith Silver. These people have more integrity and education than
you can imagine.....Why do you proceed? They are good people that
are striving for justice.....
JUST LIKE YOU,-
don't you try your hardest to do what's right---and protect people?
HONESTLY, If I were you? I would immediately re-think all of the silly
charges you've brought fourth---- before YOU or your wife in any more
trouble.
There are MANY other educated (and well respected) people that have been on
this case since it began.
You need to realize that these people are only protecting us.....

Do You Yahoo!?
Tired of spam? Yahoo! Mail has the best spam protection around
http://mail.yahoo.com

From: Dawna Lynn schwiegerath<mailto:dawnalynn0307@comcast.net>
To: TROY SCHWIEGERATH<mailto:dfdisme_01@msn.com>
Sent: Wednesday, July 06, 2005 3:52 PM
Subject: kelly day/court order

My Lawyer is drafting a letter to you regarding Kelly day change. I need you to get something to her in writing from the fire dept. a.s.a.p. I know you agreed with the dates over our e-mails, but I don't want to be in violation of the CURRENT court order. Please understand that we have to follow them until the court changes them...
If we hurry and get something in writing in the next two days--from you and denver fire --
I'm hopeful that we can still make this coming week work out.

Sell on Yahoo! Auctions - no fees. Bid on great items.
http://auctions.yahoo.com/

CERTIFICATE OF SERVICE

This is certify that I, Troy Schwiegerath, *pro se*, have duly served the within **MOTION FOR ISSUE OF WRIT OF PROHIBITION TO ANGELA ARKIN AND BETH ELLIOTT-DUMLER AND PETITION FOR REHEARING,** upon all parties herein by depositing the same in the United States mail, postage prepaid, at Denver, Colorado this 28th day of October, 2005 addressed as follows:

Colorado Supreme Court
Chief Justice: Mary J. Mullarkey
Colorado Court of Appeals
Judges: Janice B. Davidson, James A. Casebolt,
Dennis Graham & John R. Webb
Two East 14th Avenue
Denver, CO 80203

Douglas County District Court
Div. 3: Judge Angela Arkin Magistrate & Beth Elliott-Dumler
Clerk Cheryl Lane
4000 Justice Way, Ste. 2009
Castle Rock, CO 80104

Elizabeth Holman
1191 S. Parker Road, Ste. 100
Denver, CO 80231

Frances Fontana Esq.
Fontana and Associates. P.C.
5941 Manfield Rd., Ste. 201
Littleton, CO 80213

State of Colorado)
)ss
City and County of Denver)

Subscribed and sworn to me this 28th day of October, 2005, by Troy Schwiegerath. Witness my hand and official seal.

Troy Schwiegerath, Petitioner,
Pro Se
6955 W. Polk Ave.
Littleton, CO 80123

Notary Public

My Commission expires _____.